

Application No. 09/864,976
Amendment dated 21 June 2004
Reply to Office Action of 21 January 2004

REMARKS

Claims 1 to 25 remain in this application.

In the Claims

Claims 1, 10, 17, and 21 are amended to affirmatively recite the three-dimensional array of elongated channels within the composite after the composite is contacted with a liquid. Claim 11 is amended to simply clarify that the bonded mixture collects liquid from the liquid source, and not merely capable of collecting liquid. The undersigned avers that no new matter has been added.

Sections 102 Issues

Claims 1 to 3, 6 to 12, 15 to 18, and 21 to 23 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over United States Patent No. 6,015,608 to Koslow.

In the instant office action, it is stated on page 2 that the Examiner withdraws the 35 U.S.C. §102(b) rejection of claims 1 to 3, 6 to 12, and 15 to 18 as being anticipated by United States Patent No. 6,015,608 to Koslow ("the Koslow reference"). However, the same rejection still stands with respect to claims 1 to 3, 6 to 12, and 15 to 18 leaving Applicant unsure as to whether there was a clerical error. In the interest of compact prosecution, clarification is requested with respect to the 35 U.S.C. §102(b) rejection of claims 1 to 3, 6 to 12, and 15 to 18. Arguments below are directed to the 102(b) rejection of claims 21 to 23.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131. Claim 21 is amended to positively recite the three-dimensional array of

Application No. 09/864,976
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elongated channels within the composite after the composite is contacted with a liquid.

The Examiner submits that the Koslow reference teaches "channels" formed by a plurality of laminate segments, such as strips 14 (a-c) that are separated from one another by spaces 22. The channels disclosed in the Koslow reference are not formed after the laminate segment is contacted with a liquid, but are present as a result of placing the individual laminate segments on the outer layer 10 during manufacture and are not formed when the composite is contacted with water.

Claim 21, as amended, affirmatively recites a three-dimensional array of elongated channels within the composite after the liquid absorbent pad is contacted with a liquid. In contrast, even after the laminate segment disclosed in the Koslow reference has been contacted with a liquid, there are no three-dimensional arrays of elongated channels formed within the individual laminate segment. The channels present in the liquid absorbent pad are a result of placing the individual laminate segments and not after contact with a liquid.

Therefore, claim 21, as amended, is not anticipated by the Koslow reference since it lacks the element of the three-dimensional array of elongated channels within the composite after the composite is contacted with a liquid. Since claims 22 and 23 are dependent upon claim 21, they must be read to include all the limitations of claim 21, including the affirmative recitation of the three-dimensional array of elongated channels within the composite after the liquid absorbent pad is contacted with a liquid. Given that this limitation is not taught in the Koslow reference, claims 21 to 23 are not anticipated by the

Application No. 09/864,976
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Koslow reference. Applicant respectfully requests withdrawal of the §102(b) rejection with respect to claims 21 to 23.

Section 103 Issues

With respect to the alternative rejection under §103(a) of claims 1 to 3, 6 to 12, 15 to 18, and 21 to 23, and to the rejection of claims 4 to 5, 13, 14, 19, 20, 24, and 25 under §103(a), Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. See MPEP §2143.01. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. Thus, if all three criteria are not met, a *prima facie* case of obviousness has not been established, and the rejection must be withdrawn.

The Koslow reference does not suggest or motivate one of skill in the art to use super absorbent polymer (SAP) particles that form three-dimensional arrays of elongated channels within the laminate segment itself to improve liquid absorption. On the contrary, the Koslow reference teaches that in order to improve liquid absorption, laminate segments should be physically spaced apart to prevent the gel block phenomenon. This characteristic of the Koslow reference composite, made of numerous laminate segments, is entirely different from the chemical characteristic

Application No. 09/864,976
Amendment dated 21 June 2004
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of the composite of the present invention that is produced solely as a result of the particular SAP.

The Examiner states that is it reasonable to presume that the channel forming properties are inherent to the composite disclosed in the Koslow reference. However, Applicant has shown in FIG. 8 that the performance of the composite of the present invention, delineated as "Wormhole", is clearly different and non-obvious to that of a composite made with prior art SAP particles, delineated as "SAP", proving that the composite made with prior art SAP particles do not inherently exhibit this enhanced liquid acquisition and absorption property when brought into contact with a liquid. Thus, there is no reasonable expectation of success when using a prior art super absorbent polymer such that the present invention is rendered obvious.

Finally, in order for the present invention to be obvious, the prior art reference must teach or suggest all the claim limitations. The Koslow reference does not teach or suggest the limitation of the three-dimensional array of elongated channels specifically claimed in amended independent claims 1, 10, 17, and 21, regarding the recited structure.

Since all three criteria of a *prima facie* case of obviousness has not been established, the rejection must be withdrawn. Applicant respectfully requests withdrawal of the §103(a) rejection and that the claims be passed to issuance.

In response to the Examiner's arguments regarding the failure to differentiate the structure or composition of the SAP particles from the prior art, Applicant directs the Examiner's attention to MPEP §2173.05(g) that states that "there is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of

Application No. 09/864,976
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itself, render a claim improper". Furthermore, Applicant respectfully submits that it has met the burden of demonstrating that the claims are drawn to specific SAPs that form the three-dimensional array of elongated channels, and that the subject matter shown in the prior art does not possess the characteristic relied upon and proven in FIG 8. See *In re Swinehart*, 169 USPQ 226 (CCPA 1971). In the interest of moving this case forward, independent claims 1, 10, 17, and 21 are amended to positively recite an element that physically differentiates the prior art product from the instant inventions, namely the three-dimensional array of elongated channels.

Applicant respectfully requests reconsideration and that a timely Notice of Allowance be issued in this case. In order for this response to be considered timely, Applicant petitions the Commissioner for a two (2) month extension of time. The examiner is authorized to debit or credit any over- or under-payments to Deposit Account No. 502371.

Should any issues arise that may be resolved by telephone, the examiner is encouraged to call the undersigned attorney at 203.799.9000, at extension 277.

Respectfully submitted,

Date: 21 June 2004

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CERTIFICATE OF MAILING

I hereby certify that the foregoing document is being facsimile transmitted to the Commissioner of Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, at 703.872.9306.

Shirley S. Ma
Name

21 June 2004
Date

Shirley Ma
Signature

Page 13 of 13